

The Senate Health and Human Services Committee offered the following substitute to SB 603:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to
2 definitions relative to regulation of controlled substances, so as to revise the definition of
3 "practitioner"; to amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated,
4 relating to nurses, so as to provide for a definition; to provide for enactment of rules and
5 regulations affecting advanced practice registered nurses; to require that applicants for
6 licensure as registered professional nurses undergo a criminal background check; to provide
7 for a change in certain prohibited activities; to change a provision relating to a Drug
8 Enforcement Administration license applicability to nurses and physician's assistants; to
9 amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating
10 to the physicians, so as to provide for a physician to delegate certain medical acts to allow
11 an advanced practice registered nurse to issue prescription drug orders and provide
12 professional samples, order diagnostic studies, medical devices, and in certain
13 life-threatening situations to order radiographic imaging; to provide for construction and
14 limitations related to such delegation; to provide for definitions; to provide for the conditions
15 of a nurse protocol agreement; to provide for patients receiving certain care to be examined
16 by a physician on a determinative basis; to provide for execution of prescription drug orders;
17 to prohibit certain activities in certain business establishments; to require that applicants for
18 licensure as a physician undergo a criminal background check; to provide for related matters;
19 to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

21 Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to definitions
22 relative to regulation of controlled substances, is amended by striking paragraph (23) and
23 inserting in its place the following:
24

1 "(23) 'Practitioner' means:

2 (A) A physician, dentist, pharmacist, podiatrist, veterinarian, scientific investigator, or
3 other person licensed, registered, or otherwise authorized under the laws of this state
4 to distribute, dispense, conduct research with respect to, or to administer a controlled
5 substance in the course of professional practice or research in this state;

6 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise
7 authorized by law to distribute, dispense, conduct research with respect to, or to
8 administer a controlled substance in the course of professional practice or research in
9 this state; or

10 (C) An advanced practice registered nurse acting pursuant to the authority of Code
11 Section 43-34-26.3. For purposes of this chapter and Code Section 43-34-26.3, an
12 advanced practice registered nurse is authorized to register with the federal Drug
13 Enforcement Administration and appropriate state authorities; or

14 ~~(D)~~ (D) A physician's assistant acting pursuant to the authority of subsection (e.1) of
15 Code Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code
16 Section 43-34-103 and notwithstanding the provisions of subsection (g) of Code
17 Section 43-34-26.1, a physician's assistant is authorized to register with the federal
18 Drug Enforcement Administration and appropriate state authorities."

19 SECTION 2.

20 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is
21 amended by adding a new paragraph to Code Section 43-26-3, relating to definitions, to read
22 as follows:

23 "(1.1) 'Advanced practice registered nurse' means a registered professional nurse licensed
24 under this chapter who is recognized by the board as having met the requirements
25 established by the board to engage in advanced nursing practice and who holds a master's
26 degree and national board certification in his or her area of speciality, or a person who
27 was recognized as an advanced practice registered nurse by the board on or before
28 January 1, 2006. Only a person recognized by the board as an advanced practice
29 registered nurse shall be authorized to hold himself or herself out as an advanced practice
30 registered nurse or to use the initials A.P.R.N."

31 SECTION 3.

32 Said chapter is further amended by striking paragraph (12) of subsection (a) of Code Section
33 43-26-5, relating to general powers of the board, and inserting in lieu thereof the following:

34 "(12) Be authorized to enact rules and regulations for registered professional nurses in
35 their performing acts under a nurse protocol as authorized in Code Section 43-34-26.1

1 and enact rules and regulations for advanced practice registered nurses in performing acts
 2 as authorized in Code Section 43-34-26.3;"

3 SECTION 4.

4 Said chapter is further amended by striking Code Section 43-26-7, relating to requirements
 5 for licensure as a registered professional nurse, and inserting in lieu thereof the following:
 6 "43-26-7.

7 (a) Any applicant who meets the requirements of this Code section shall be eligible for
 8 licensure as a registered professional nurse.

9 (b) An applicant for licensure by examination shall:

10 (1) Submit a completed written application and fee;

11 (2) Have graduated from a nursing education program, approved by this board, or which
 12 meets criteria similar to, and not less stringent than, those established by this board;

13 (3) Pass a board recognized licensing examination; provided, however, such examination
 14 may not be taken prior to graduation from the nursing education program; and

15 (4) Provide the board with any and all information necessary, including but not limited
 16 to classifiable sets of fingerprints, to perform a criminal background check and expressly
 17 consent and authorize the board or its representative to perform such a check. The
 18 applicant's fingerprints shall be forwarded to the Georgia Crime Information Center
 19 which shall run a criminal background check on the applicant and provide the results of
 20 the background check to the board. Additionally, the applicant's fingerprints will be
 21 forwarded to the Federal Bureau of Investigation for a national criminal history record
 22 check. The applicant shall be responsible for all fees associated with the performance of
 23 a background check; and

24 (5) Meet such other criteria as established by the board.

25 (c) An applicant for licensure by endorsement shall:

26 (1) Submit a completed written application and fee;

27 (2) Have passed a board recognized licensing examination following graduation from the
 28 nursing education program;

29 (3) Submit verification of initial and current licensure in any other licensing jurisdiction
 30 administering a board recognized licensing examination;

31 (4) Have practiced nursing as a registered professional nurse for a period of time as
 32 determined by the board or have graduated from a nursing education program within the
 33 four years immediately preceding the date of the application; and

34 (5) Meet such other criteria as established by the board.

35 (d) An applicant for reinstatement who has previously held a valid license in Georgia shall:

36 (1) Submit a completed written application and fee;

1 (2) Have practiced nursing as a registered professional nurse for a period of time as
 2 determined by the board or have graduated from a nursing education program within the
 3 four years immediately preceding the date of the application; and

4 (3) Provide the board with any and all information necessary, including but not limited
 5 to classifiable sets of fingerprints, to perform a criminal background check and expressly
 6 consent and authorize the board or its representative to perform such a check. The
 7 applicant's fingerprints shall be forwarded to the Georgia Crime Information Center
 8 which shall run a criminal background check on the applicant and provide the results of
 9 the background check to the board. Additionally, the applicant's fingerprints will be
 10 forwarded to the Federal Bureau of Investigation for a national criminal history record
 11 check. The applicant shall be responsible for all fees associated with the performance of
 12 a background check; and

13 (4) Meet such other criteria as established by the board."

14 SECTION 5.

15 Said chapter is further amended by striking paragraph (4) of Code Section 43-26-10, relating
 16 to the prohibition of practicing as a registered professional nurse without a license, and
 17 inserting in lieu thereof the following:

18 "(4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying
 19 that such person is a registered professional nurse or advanced practice registered nurse
 20 unless such person is duly licensed so to practice under the provisions of this article;"

21 SECTION 6.

22 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
 23 physicians, is amended by striking subsection (g) of Code section 43-34-26.1, relating to
 24 delegation of authority to a nurse or physician's assistant, and inserting in lieu thereof the
 25 following:

26 "(g) Nothing in this Code section shall be construed to authorize or permit the issuance of
 27 a Drug Enforcement Administration license to a nurse ~~or physician's assistant~~ who is not
 28 an advanced practice registered nurse."

29 SECTION 7.

30 Said article is further amended by adding a new Code Section 43-34-26.3 to read as follows:

31 "43-34-26.3.

32 (a) As used in this Code section, the term:

33 (1) 'Advanced practice registered nurse' shall have the same meaning as provided in
 34 paragraph (1.1) of Code Section 43-26-3.

1 (2) 'Controlled substance' means any controlled substance as defined in Code Section
2 16-13-21 but shall not include any Schedule I controlled substance included in Code
3 Section 16-13-25 or any Schedule II controlled substance included in Code Section
4 16-13-26.

5 (3) 'Dangerous drug' means any dangerous drug as defined in Code Section 16-13-71.

6 (4) 'Delegating physician' means a physician who has entered into a nurse protocol
7 agreement pursuant to this Code section.

8 (5) 'Designated teaching hospital' shall have the same meaning as provided in Code
9 Section 31-7-95.

10 (6) 'Diagnostic study' means a laboratory test, X-ray, or ultrasound.

11 (7) 'Drug' means any dangerous drug or controlled substance.

12 (8) 'Free health clinic' shall have the same meaning as provided in Code Section
13 51-1-29.4.

14 (9) 'Life threatening' means an emergency situation in which a patient's life or physical
15 well-being will be harmed if certain testing is not performed immediately.

16 (10) 'Nurse protocol agreement' means a written document mutually agreed upon and
17 signed by an advanced practice registered nurse and a physician, by which document the
18 physician delegates to that advanced practice registered nurse the authority to perform
19 certain medical acts pursuant to this Code section, and which acts may include, without
20 being limited to, the ordering of drugs, medical devices, medical treatments, or diagnostic
21 studies or in life-threatening situations radiographic imaging tests. Such agreements shall
22 conform to the provisions set forth in subsection (c) of this Code section.

23 (11) 'Order' means to select pursuant to a nurse protocol agreement which drug, medical
24 device, medical treatment, or diagnostic study or in life-threatening situations
25 radiographic imaging test is appropriate for a patient and to communicate the same in
26 writing, orally, via facsimile, or electronically.

27 (12) 'Physician' means a person licensed to practice medicine under this chapter and:

28 (A) Whose principal place of practice is within this state and is within 100 miles of the
29 location where the nurse protocol agreement is being utilized; or

30 (B) Whose principal place of practice is outside this state but is within 50 miles of the
31 location where the nurse protocol agreement is being utilized within this state.

32 (13) 'Prescription drug order' means a written or oral order of an advanced practice
33 registered nurse for a drug or medical device for a specific patient. Such term includes
34 an electronic visual image prescription drug order and an electronic data prescription drug
35 order.

1 (14) 'Professional sample' means a complimentary dose of a drug, medication,
2 medication voucher, or medical device provided by the manufacturer for use in patient
3 care.

4 (15) 'Radiographic imaging test' means a computed tomography, magnetic resonance
5 imaging, positron emission tomography, or nuclear medicine.

6 (16) 'Routine preventive health maintenance' means evaluation and maintenance of an
7 individual's health including those medical acts appropriate to age and gender, medical
8 history, and risk factors such as examination, counseling, anticipatory guidance, risk
9 factor reduction intervention, and ordering of appropriate immunizations and laboratory
10 and diagnostic procedures.

11 (b)(1) In addition to and without limiting the authority granted pursuant to Code Section
12 43-34-26.1, a physician may delegate to an advanced practice registered nurse in
13 accordance with a nurse protocol agreement the authority to order drugs, medical devices,
14 medical treatments, or diagnostic studies or in life-threatening situations radiographic
15 imaging tests.

16 (2) Unless patients are receiving services in facilities identified in paragraphs (1) through
17 (7) of subsection (g) of this Code section, a delegating physician entering into a nurse
18 protocol agreement pursuant to this Code section shall be physically present at the
19 location at which the delegated acts are being carried out for at least 25 percent of the
20 time while such acts are being carried out.

21 (3) A delegating physician entering into a nurse protocol agreement pursuant to this
22 Code section shall adequately supervise acts delegated in accordance with a nurse
23 protocol agreement. Except for patients receiving services in the facilities identified in
24 paragraphs (1) through (7) of subsection (g) of this Code section, patients receiving
25 services pursuant to a nurse protocol agreement shall be examined by a physician:

26 (A) Biennially for patients receiving oral contraceptives, hormone replacement
27 therapy, prenatal vitamins, or routine preventive health maintenance; and

28 (B) Annually for patients receiving ongoing medical treatments, drugs other than
29 controlled substances, or medical devices.

30 (4) Patients receiving services pursuant to a nurse protocol agreement shall be examined
31 by a physician quarterly if the patient is receiving controlled substances.

32 (c) A nurse protocol agreement between a physician and an advanced practice registered
33 nurse pursuant to this Code section shall:

34 (1) Be between an advanced practice registered nurse who is in a comparable specialty
35 area or field as that of the delegating physician;

36 (2) Contain a provision for immediate consultation between the advanced practice
37 registered nurse and the delegating physician; if the delegating physician is not available,

1 the delegating physician for purposes of consultation may designate another physician
2 who is aware of and in agreement with the nurse protocol agreement;

3 (3) Identify the parameters under which delegated acts may be performed by the
4 advanced practice registered nurse, including without limitation the number of refills
5 which may be ordered, the kinds of diagnostic studies which may be ordered, the extent,
6 if authorized, to which radiographic images may be ordered in life-threatening situations,
7 and the circumstances, if any, under which the advanced practice registered nurse may
8 execute a prescription drug order. The nurse protocol agreement may allow an advanced
9 practice registered nurse to review a report of diagnostic studies or radiographic images
10 but shall not authorize the advanced practice registered nurse to interpret such images and
11 shall require the advanced practice registered nurse to forward a copy of such report to
12 the delegating physician;

13 (4) Require documentation either in writing or by electronic means or other medium by
14 the advanced practice registered nurse of those acts performed by the advanced practice
15 registered nurse which are medical acts required to be authorized by the delegating
16 physician in the nurse protocol agreement;

17 (5) Include a schedule for periodic review by the delegating physician of patient records;

18 (6) Provide for patient review, evaluation, or follow-up by the delegating physician, with
19 the frequency of such review, evaluation, or follow-up based on the nature, extent, and
20 scope of the delegated act or acts as determined by the delegating physician and in
21 accordance with paragraphs (3) and (4) of subsection (b) of this Code section;

22 (7) Be reviewed, revised, or updated annually by the delegating physician and the
23 advanced practice registered nurse;

24 (8) Be available for review upon written request to the advanced practice registered nurse
25 by the Georgia Board of Nursing;

26 (9) Be approved by the board and filed with the board by the delegating physician;

27 (10) Not allow an advanced practice registered nurse to perform an abortion; and

28 (11) Not allow an advanced practice registered nurse to issue a prescription drug order
29 that is intended to cause an abortion to occur pharmacologically.

30 (d) A written prescription drug order issued pursuant to this Code section shall be signed
31 by the advanced practice registered nurse and shall be on a form which shall include,
32 without limitation, the names of the advanced practice registered nurse and delegating
33 physician who are parties to the nurse protocol agreement, the patient's name and address,
34 the drug or device ordered, directions with regard to the taking and dosage of the drug or
35 use of the device, and the number of refills. A prescription drug order which is transmitted
36 either electronically or via facsimile shall conform to the requirements set out in paragraphs
37 (1) and (2) of subsection (c) of Code Section 26-4-80, respectively.

1 (e) An advanced practice registered nurse may be authorized under a nurse protocol
2 agreement to request, receive, and sign for professional samples and may distribute
3 professional samples to patients. The office or facility at which the advanced practice
4 registered nurse is working shall maintain a list of the professional samples approved by
5 the delegating physician for request, receipt, and distribution by the advanced practice
6 registered nurse as well as a complete list of the specific number and dosage of each
7 professional sample and medication voucher received and dispensed. In addition to the
8 requirements of this Code section, all professional samples shall be maintained as required
9 by applicable state and federal laws and regulations.

10 (f) A managed care system, health plan, hospital, insurance company, or other similar
11 entity shall not require a physician or advanced practice registered nurse to be a party to
12 a nurse protocol agreement as a condition for participation in or reimbursement from such
13 entity.

14 (g) A delegating physician may not enter into a nurse protocol agreement pursuant to this
15 Code section with more than four advanced practice registered nurses; provided, however,
16 that no physician may supervise more than two advanced practice registered nurses at any
17 one time, except this limitation shall not apply to an advanced practice registered nurse that
18 is practicing:

19 (1) In the emergency department of a hospital licensed under Title 31;

20 (2) In a designated teaching hospital;

21 (3) In the Division of Public Health of the Department of Human Resources;

22 (4) In any county board of health;

23 (5) In any free health clinic;

24 (6) In any organization which has been established under the authority of or is receiving
25 funds pursuant to 42 U.S.C. Section 254b or 254c of the United States Public Health
26 Service Act; or

27 (7) In a health maintenance organization that has an exclusive contract with a medical
28 group practice to provide or arrange for the provision of substantially all physician
29 service to enrollees in health benefit plans of the health maintenance organization.

30 (h) Nothing in this Code section shall be construed to create a presumption of liability,
31 either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title
32 26 who, in good faith, fills a prescription drug order of an advanced practice registered
33 nurse issued pursuant to a nurse protocol agreement.

34 (i) Nothing in this Code section shall be construed to apply to the practice of a certified
35 registered nurse anesthetist.

36 (j) Nothing in this Code section shall be construed to require an advanced practice
37 registered nurse to be a party to a nurse protocol agreement in order to practice as a

1 registered professional nurse or an advanced practice registered nurse as otherwise
2 permitted by Article 1 of Chapter 26 of this title.

3 (k) Nothing in this Code section shall be construed to authorize an advanced practice
4 registered nurse to issue a prescription drug order for a Schedule I or II controlled
5 substance or authorize refills of any drug for more than 12 months from the date of the
6 original order except in the case of oral contraceptives, hormone replacement therapy, or
7 prenatal vitamins which may be refilled for a period of 24 months.

8 (l) Except for advanced practice registered nurses who work in the facilities identified in
9 paragraphs (1) through (7) of subsection (g) of this Code section, it shall be unlawful for
10 an advanced practice registered nurse, alone or in combination with others, to employ a
11 physician who is required to supervise the medical acts of the employing advanced practice
12 registered nurse. Such unlawful practice shall be sanctioned by the Georgia Board of
13 Nursing and the board governing the respective professions."

14 **SECTION 8.**

15 Said article is further amended by adding a new Code section to read as follows:

16 "43-34-26.4.

17 No advanced practice registered nurse or physician's assistant shall exercise authority
18 delegated pursuant to Code Section 43-34-26.1 or 43-34-26.3 while located within a
19 general merchandising establishment or business establishment, a portion of which is
20 licensed as a pharmacy pursuant to Article 6 of Chapter 4 of Title 26. This Code section
21 shall not apply to the office of a physician licensed pursuant to this chapter, a hospital
22 licensed pursuant to Title 31, or in a health maintenance organization that has an exclusive
23 contract with a medical group practice to provide or arrange for the provision of
24 substantially all physician service to enrollees in health benefit plans of the health
25 maintenance organization."

26 **SECTION 9.**

27 Said article is further amended by striking subparagraph (a)(1)(A) of Code Section 43-34-27,
28 relating to license requirement for persons engaged in the practice of medicine, and inserting
29 in lieu thereof the following:

30 "(a)(1)(A) Any person who wishes to obtain the right to practice medicine in this state
31 and who was not, prior to March 16, 1970, registered or licensed to practice medicine,
32 either by the State Board of Medical Examiners or the State Board of Examiners in
33 Osteopathy, shall, before it shall be lawful for him to practice medicine in this state,
34 make application to the board through the executive director, upon such forms and in
35 such manner as shall be adopted and prescribed by the board, and shall obtain from the

1 board a license to practice medicine. All applicants shall provide the board with any
2 and all information necessary, including but not limited to classifiable sets of
3 fingerprints, to perform a criminal background check and expressly consent and
4 authorize the board or its representative to perform such a check. The applicant's
5 fingerprints shall be forwarded to the Georgia Crime Information Center which shall
6 run a criminal background check on the applicant and provide the results of the
7 background check to the board. Additionally, the applicant's fingerprints will be
8 forwarded to the Federal Bureau of Investigation for a national criminal history record
9 check. The applicant shall be responsible for all fees associated with the performance
10 of a background check. Any person who practices medicine without first having
11 obtained a license shall be deemed to have violated this chapter. All applicants for a
12 license to practice medicine or for a renewal of any such license which has been
13 revoked shall furnish the board with evidence of good moral character. Applications
14 from candidates to practice medicine or surgery in any of its branches shall be
15 accompanied by proof that the applicant is a graduate of one of the two colleges of
16 medicine now existing in this state, or from some other legally incorporated medical
17 college or osteopathic college."

18 **SECTION 10.**

19 All laws and parts of laws in conflict with this Act are repealed.